

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

THE SEQUOIA PRESIDENTIAL YACHT	)	
GROUP, LLC and GARY SILVERSMITH,	)	
	)	
Plaintiffs/	)	
Counterclaim Defendants,	)	
	)	
v.	)	C.A. No. 8270-VCG
	)	
FE PARTNERS, LLC,	)	
	)	
Defendant/	)	
Counterclaim Plaintiff.	)	

**ORDER**

AND NOW, this 29th day of August 2013,

WHEREAS, on February 1, 2013, Plaintiffs/Counterclaim Defendants The Sequoia Presidential Yacht Group, LLC (“Sequoia LLC”) and Gary Silversmith (collectively, the “Sequoia Parties”) filed a Verified Complaint (the “Complaint”) against Defendant/Counterclaim Plaintiff FE Partners, LLC (“FE Partners”) in this Court;

WHEREAS, on February 28, 2013, FE Partners filed a Verified Counterclaim (the “Counterclaim”) against the Sequoia Parties;

WHEREAS, on June 13, 2013, FE Partners filed a Motion for Default Judgment and Other Sanctions for Fabrication of Evidence, Alteration of Evidence, Destruction of Evidence and Witness Intimidation (the “Default Motion”) seeking “an order granting default judgment in its favor on all claims and counterclaims”;

WHEREAS, the Plaintiffs represented to the Court that they do not oppose the Default Motion, except for that portion of the Default Motion seeking sanctions against Plaintiffs’ counsel;

WHEREAS, on August 7, 2013, the parties stipulated and agreed “that a default judgment shall be entered against Plaintiffs/Counterclaim-Defendants and in favor of Defendant/Counterclaim-Plaintiff on all claims and counterclaims in the above-captioned matter with the form of judgment order implementing this stipulation to be determined and entered by the Court;”

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED this 29th day of August, 2013, as follows:

1. The Complaint is dismissed with prejudice;
2. Pursuant to Court of Chancery Rule 54(b), judgment is hereby entered in favor of FE Partners and against the Sequoia Parties. It is hereby declared and adjudged that:
  - a. The Loan Documents are valid and binding obligations of the Sequoia Parties, enforceable against the Sequoia Parties in accordance with their terms and the Sequoia Parties are in default thereunder;
  - b. Through and including the date of the entry of this Order and Judgment, each of the Sequoia Parties has no defenses, setoffs, claims, controversies, counterclaims or causes of action of any kind or nature whatsoever against FE Partners, including without limitation any such defenses, setoffs, controversies, claims, counterclaims, or causes of action (direct or indirect) with respect to the Loan Documents or any transaction contemplated thereby, including without limitation the Option, or with respect to any other documents or instruments now or hereafter evidencing, securing or in any way relating to the Loan Documents, or with respect to the administration,

servicing or funding of the transactions reflected by the Loan Documents, or with respect to any other relationship, matter or transaction among or involving the Sequoia Parties and FE Partners, and any such defense, setoff, claim, controversy, counterclaim or cause of action which the Sequoia Parties ever had or may have had shall now and hereafter be deemed irrevocably released.

- c. FE Partners is entitled to exercise any or all of its rights under the Loan Documents, including without limitation the following:
  - i. Its Option to acquire the Sequoia Presidential Yacht (the “Sequoia”) or the membership interests in Sequoia LLC at an exercise price (the “Exercise Price”) based on a \$7.8 million default enterprise value (or aggregate value of the Sequoia Presidential Yacht and all of its contents) which exercise price may be reduced as provided in this Order and Judgment in order to determine the final enterprise value (the “Default Option Price”); and
  - ii. The remedies available to FE Partners pursuant to the Loan Agreement, the Note, the Guaranty, and the Mortgage, including all exhibits and attachments thereto;
- d. The Sequoia Parties fraudulently induced FE Partners to enter into the Loan Documents as alleged in the Counterclaims, including, but not limited to, through the use of fraudulent misrepresentations, including the fabricated \$20 million Gazprom offer letter (of which a copy is attached as Exhibit 1 to the Counterclaims);

3. Pursuant to Court of Chancery Rule 54(b), judgment is hereby entered in favor of FE Partners and against the Sequoia Parties for attorneys' fees, in an amount this Court deems just and proper to be determined pursuant to the procedure set forth in paragraph 4 below;
4. The procedure for determination of the award of costs and attorneys' fees shall be as follows:
  - a. Within 10 days of the entry of this Order, FE Partners shall provide to Plaintiffs copies of all invoices for which it seeks an award of costs and fees, without waiver of attorney-client privilege, work product or other applicable privileges, and such disclosure shall be used for no other purpose than in connection with the pending fee application;
  - b. The parties will meet and confer to attempt to agree upon an amount of such fees, and present the Court with an order for that amount within 10 days of the receipt of the invoices if an agreement is reached;
  - c. If the parties cannot agree, FE Partners shall make its fee application within 10 days of the meet and confer;
  - d. Plaintiffs shall have 10 days to file any objections to the fee application. If Plaintiffs rely upon the amount of their own attorneys' fees incurred in this matter in support of their objection, they shall provide a copy of all invoices incurred, without waiver of attorney-client privilege, work product or other applicable privileges, to FE Partners and such disclosure shall be used for no other purpose than in connection with the pending fee application;
  - e. FE Partners shall have 5 days to file any reply; and

- f. The Court will hold a hearing on the amount of fees to be awarded at the discretion of the Court.
5. Prior to the closing of the sale of the Sequoia Presidential Yacht to FE Partners, to aid in clearing title to the Sequoia, an independent person who shall be a member of the Delaware bar in good standing shall be appointed by Plaintiffs' Delaware counsel at Plaintiffs' expense to determine any liabilities of the Plaintiffs that constitute or could constitute a lien on the Sequoia, and the Plaintiffs shall enter into any agreements, compromises, settlements, or arrangements for payment to ensure that clear title to the Sequoia may be delivered to FE Partners at closing consistent with findings of the independent appointee;
6. The final Default Option Price shall be determined by deducting the following from the Exercise Price: the amount of attorneys' fees and costs as determined in accordance with Paragraph 4, the amount of FE Partners' loan, and the outstanding and pending or potential tax or other applicable liabilities of Sequoia LLC that must be satisfied to deliver all legal and beneficial right, title and interest in and to either the membership interests in the Sequoia LLC or Sequoia LLC's interest in the Sequoia Presidential Yacht, in each case free and clear of all liens, encumbrances, claims, rights of first refusal, options, warrants, calls, security interests, charges, pledges or restrictions on transfer of any nature whatsoever. With respect to any exercise of the option for the interests in Sequoia LLC, the final Default Option Price will be further reduced by the amount necessary to satisfy all outstanding debts against the LLC. In this regard, the respective amount of the outstanding tangible personal property tax, sales and use

tax and other applicable taxes for the District of Columbia and other relevant jurisdictions, if any, shall be determined and established by written agreements of the parties and/or settlements between the District of Columbia government, the government of such other jurisdictions, if any, and the Plaintiffs. Any alleged outstanding or pending liability for possible violations of the District of Columbia, State of Maryland or Commonwealth of Virginia liquor laws shall be determined and established, or satisfied and resolved, as the case may be, as the District of Columbia, State of Maryland or Commonwealth of Virginia governments shall require. In order to assure that such settlements or resolutions are fully and finally resolved and not subject to subsequent challenge for fraud or otherwise, the independent appointee identified in Paragraph 5 shall be permitted to disclose to the relevant governmental authorities confidential discovery information obtained during the course of discovery in this action, notwithstanding the Protective Order in place in this action, and Plaintiffs shall execute and deliver whatever authorization as may be required by such governmental authorities to enable the independent appointee to have discussions with such authorities regarding such information;

7. Any disputes arising out of the accounting and calculation of the final Default Option Price as contemplated by Paragraph 5 shall be brought exclusively in the Delaware Court of Chancery. If, after making the adjustments contemplated by Paragraph 6, the Default Option Price is less than \$0.00, FE Partners shall be entitled to seek damages against the Sequoia Parties;

8. The Court shall retain jurisdiction for any disputes arising out of the interpretation or enforcement of this Order;
9. This Order and Judgment shall be separate from and in addition to FE Partners' request for sanctions against the Sequoia Parties' counsel, which has been heard by this Court and will be addressed separately; and
10. Pursuant to 10 *Del. C.* § 4734, this judgment shall be entered in the same manner and form and in the same books and indices as judgments and orders entered in the Superior Court. After the entry thereof, the portions of this judgment calling for payment of money shall have the same force and effect as though the judgment had been entered by the Superior Court.

IT IS SO ORDERED.

/s/ Sam Glasscock III  
Vice Chancellor